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II. STATEMENT OF FACTS

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10 2.1 Defendant, Franciscan Health System, owns and operates Saint Clare
11 Hospital in Lakewood, Washington and Saint Francis Hospital in Federal Way,
12 Washington.

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14 2.2 Plaintiff's employment began at Saint Clare Hospital in June 2002. Plaintiff
15 became employed at Saint Francis Hospital in November 2002. Both positions were
16 fulltime or near fulltime.

17

18 2.3 During the period that Plaintiff was employed by Defendant, she informed
19 Defendant of her need for leave under the Family and Medical Leave Act (FMLA), as
20 Plaintiff has a medical condition, narcolepsy, which requires intermittent medical care.

21

22 2.4 Plaintiff provided Defendant with documentation of her need for FMLA
23 leave on numerous occasions, providing such information to her supervisor at Saint
24 Francis Hospital, Gloria Durant, as well as the Human Resources Manager at Saint
25 Francis during the relevant time, Jill Karon.

26

27 2.5 Plaintiff worked a shift at Saint Clare Hospital from 8:30 p.m. on January 3,
28 2005 to 4:30 a.m. on January 4, 2005. On January 5, 2005, Plaintiff went to Saint Francis
29 Hospital to begin her shift at 6:30 a.m. After completing her shift at Saint Francis,
30 Plaintiff went to Saint Clare and started her shift at 5:30 p.m. on January 5, 2005.

31

32 2.6 While at work at Saint Clare on January 5, 2005, Plaintiff experienced a
33 narcolepsy episode, and was admitted to Saint Clare Hospital. Plaintiff was discharged
34 from the hospital later that evening. Her physician told Plaintiff to rest for 24 hours, and
35 gave Plaintiff a form excusing her from work for the next 24 hours.

36

1 2.7 Late in the evening of January 5, 2005, after Plaintiff had been discharged
2 from Saint Clare, Plaintiff called her supervisor at Saint Francis, Gloria Durant, and
3 informed Ms. Durant of Plaintiff's need for 24 hours of FMLA leave.

4 2.8 The morning of January 6, 2005, Ms. Durant called Plaintiff and told Plaintiff
5 not to report to work at Saint Francis on Saturday, January 8 2005, when Plaintiff was
6 scheduled to work beginning at 4:30 a.m. Ms. Durant directed Plaintiff to come to a
7 meeting at 9:30 a.m. on January 8, 2005 and to meet at Jill Karon's office at Saint
8 Francis.

9 2.9 Plaintiff worked at Saint Clare from 5:30 p.m. on January 7, 2005 to 2:00
10 a.m. January 8, 2005. Plaintiff then reported for the meeting as directed at Saint Francis
11 at 9:30 a.m. on January 8, 2005. Present at the meeting were Jill Karon, Gloria Durant,
12 and Plaintiff.

13 2.10 Plaintiff was informed by Gloria Durant that her employment at Saint
14 Francis was being terminated that day. During the meeting, Ms. Karon accused Plaintiff
15 of complaining that Saint Francis Hospital was discriminating against Plaintiff on the
16 basis of Plaintiff's race and disability.

17 2.11 On the personnel action request form completed by Defendant, the reason
18 stated for Plaintiff's termination was that Plaintiff was "unable to coincide needed hours
19 with other job." Defendant indicated on the form that Plaintiff was not eligible for rehire.

20 2.12 Plaintiff was an "eligible employee" under the FMLA, 29 USC § 2601 et
21 seq.

22 2.13 Plaintiff's medical condition constituted a "serious health condition" under
23 the FMLA.

1 2.14 Defendant's termination of Plaintiff's employment at Saint Francis Hospital
2 constituted interference with Plaintiff's exercise or attempt to exercise her right to take
3 leave under the FMLA.

4 2.15 Plaintiff's medical condition constituted a disability under the Washington
5 Law Against Discrimination, RCW 49.60 and the Rehabilitation Act of 1973, 29 USC §
6 794.

7 2.16 Defendant is a program receiving federal financial assistance within the
8 meaning of the Rehabilitation Act of 1973.

9 2.17 Plaintiff was otherwise qualified for the job at Saint Francis Hospital from
10 which she was terminated.

11 2.18 Plaintiff was discriminated against by Defendant on basis of Plaintiff's
12 disability.

13 2.19 A substantial factor in Defendant's decision to terminate Plaintiff's
14 employment was because Plaintiff has a disability.

15 2.20 Defendant willfully violated Plaintiff's rights under the FMLA.

16 2.21 Defendant terminated Plaintiff in retaliation for Plaintiff having opposed
17 what Plaintiff reasonably believed to be discrimination against her by Defendant on the
18 basis of Plaintiff's disability and race.

19 2.22 After Plaintiff began her employment at Defendant's Saint Francis Hospital
20 in November 2002, Plaintiff worked more than 40 hours per week for Defendant.

21 2.23 Defendant failed to pay Plaintiff overtime wages for Plaintiff's hours greater
22 than 40 hours per week, in violation of the Washington Minimum Wage Act, RCW
23 49.46.

1 2.24 Defendant willfully paid Plaintiff a lower wage than required by law by not
2 paying Plaintiff her overtime wages for hours greater than 40 hours per week.
3 2.25 Defendant willfully violated Plaintiff's rights under the FMLA.
4 2.26 Plaintiff has been injured and suffered damages as a result of Defendant's
5 acts.
6 2.27 Defendant acted with actual malice and/or deliberate indifference and/or
7 reckless disregard for Plaintiff's federally protected rights.
8

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10 **III. STATEMENT OF CLAIMS**

11 **1. Family and Medical Leave Act 29 USC § 2601 et. seq.)**

12 Defendant's termination of Plaintiff's employment violated Plaintiff's rights under
13 the FMLA.
14

15 **2. Disability Discrimination – RCW 49.60**

16 Defendant's termination of Plaintiff's employment constitutes disability
17 discrimination in violation of the Washington Law Against Discrimination, RCW 49.60.
18

19 **3. Disability Discrimination – Rehabilitation Act**

20 Defendant's termination of Plaintiff's employment constitutes disability
21 discrimination in violation of the Rehabilitation Act of 1973, 29 USC § 704.
22

23 **4. Washington Minimum Wage Act – RCW 49.46**

24 Defendant's failure to pay Plaintiff overtime wages for hours worked greater than
25 40 hours per week constitutes a violation of the Washington Minimum Wage Act, RCW
26 49.46.

27 **5. Retaliation – RCW 49.60**

1 Defendant's actions constitute retaliation against Plaintiff for Plaintiff having
2 engaged in the protected activity of opposing what Plaintiff reasonably believed to be
3 race discrimination, in violation of RCW 49.60.

4 6. **Retaliation – 42 USC § 1981.**

5 Defendant's actions constitute retaliation against Plaintiff for Plaintiff having
6 engaged in the protected activity of opposing what Plaintiff reasonably believed to be
7 race discrimination, in violation of 42 USC § 1981.

9

10 **IV. WAIVER OF PHYSICIAN/PATIENT PRIVILEGE**

11 To the extent required by law, Plaintiff waives the Physicians/Patient Privilege.

13

14 **V. JURY DEMAND**

15 Plaintiff demands that this matter be tried before a jury.

16

17 **VI. PRAYER FOR RELIEF**

18 Wherefore, Plaintiff prays that the court enter a judgment:

19 1. Awarding Plaintiff actual, compensatory, punitive and liquidated
20 damages;

21 2. Declaring that Defendant's actions constitute a violation of the FMLA,
22 RCW 49.60, that Washington Minimum Wage Act, the Rehabilitation Act
23 of 1973, and 42 USC § 1981;

24 3. Awarding Plaintiff her attorney's fees and costs;

25 4. For such other and further relief as the courts deems just and equitable.

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2 Dated this 9th day of May, 2007.

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5 LAW OFFICES OF
6 JUDITH A. LONNQUIST, P.S.

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/s/ Mitchell A. Riese

Mitchell A. Riese WSBA No. 11947
Attorneys for Plaintiff

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CERTIFICATE OF SERVICE

I hereby certify that on May 9, 2007, I caused to be electronically filed the foregoing documents with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

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/s/ Mitchell A. Riese
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